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NOTES ON CURRENT LEGISLATION

CONDUCTED BY HORACE E. FLACK

Ballot Laws. Several rather important changes in the ballot laws of the states were made during the legislative session of 1909. Connecticut: which up to the present year had retained the system of unofficial ballots, separate for each party, combined with a system of official envelopes, adopted a blanket or Australian ballot of the "party column" type. This leaves only five states—Georgia, Missouri, New Jersey, North Carolina and South Carolina—and one territory, within the United States proper,—New Mexico—which have not yet adopted a blanket, official ballot. (In Missouri, New Jersey and New Mexico the ballots are official, but are separate for each party.) Moreover, this year North Carolina took the first step in the direction of ballot reform by adopting the Australian ballot for use in one county—New Hanover. Primary reform in North Carolina starting with one or two counties, has spread rapidly to others, and possibly ballot reform will follow the same course.

Oklahoma, which in 1890 adopted the "party column" form of ballot, in 1897 changed to the "Massachusetts" form, and in 1899 changed back again to the "party column" ballot, has changed this year for the third time, and again adopted the "Massachusetts" form.

Wisconsin passed a law permitting the county board of any county to adopt, for use at general elections within the county, a "coupon ballot" similar to that proposed for state-wide use in 1905, and rejected by popular vote in April, 1906.

The new Australian ballot law in Connecticut (P. A. 1909, ch. 250) follows rather closely, so far as concerns the form of ballot, the law of New York. As mentioned above, the ballot is to be of the "party column" type, with special circles for voting a straight party ticket. The several columns are to be arranged in such order as the secretary of state may determine, precedence, however, being given to the party which polled the largest vote for governor at the last preceding election, "and so on." There is also to be a blank column for writing in names of candidates not printed on the ballot. The ballots are to be provided with detachable stubs, consecutively numbered, which will serve to

identify them until the stubs are torn off just prior to the deposit of the ballots in the ballot-box. On the back of each ballot will be printed the usual official endorsement. Whenever constitutional amendments or other measures are submitted to popular vote they are all to be printed on the general ballot by designations prescribed by the secretary of state, once in a column in which the word "yes" appears under each amendment or measure, and again in a column in which the word "no" so appears. A cross in the circle at the head of the first column will count as a vote for, a cross in the circle at the head of the second column as a vote against, all of the questions submitted; but they may also be voted on separately by crosses in the individual voting squares opposite the designations of the several measures. Nominations made by any "caucus, convention or meeting" of any political party or "organization of electors" are to be certified to the secretary of state, or, in the case of local nominations, to the clerk of the town, city or borough, and only the names of candidates thus certified are to be printed on the ballot. The official ballots are to be obtainable by the voters only at the polling places, on election day, and from the election officers. Official envelopes are done away with. The law also contains the usual provisions of the Australian system for the preservation of the secrecy of the ballot.

The North Carolina law applying to New Hanover County (P. A. 1909, ch. 867) also follows to some extent the ballot law of New York. It provides for an official, blanket ballot of the "party column" type, with special circles for voting a straight party ticket. The party which polled the largest vote at the last preceding general election is to be given the first column at the left of the ballot, and at the extreme right there is to be a blank column for writing in names. Detachable stubs, consecutively numbered, are provided for, and in addition each ballot is to be initialed on the back by one of the election officers before its delivery to a voter. Constitutional amendments are to be printed on the general ballot. The law as at first enacted prescribed no penalty for a violation of some of the most important provisions in regard to the secrecy of the ballot, but this omission was remedied by an amendment later in the session (P. L. 1909, ch. 919). The law applies not only to general, but also—so far as its provisions are appropriate—to primary elections, which, in New Hanover, are direct.

The amendment to the ballot law of Oklahoma (L. 1909, ch. 16, art. 1) provides that the official ballot for general elections shall be of the "Massachusetts" form. The county election board furnishing the ballots is to have "power to classify the names of candidates for each office

in each group in such a manner as they may deem proper," but no special arrangement of the candidates' names under each office is provided for in the act itself. The ballot is to contain "no emblem or party device," nor the name of any political party. This variety of "Massachusetts" ballot is common in the Southern States, being found in Florida, Mississippi, Tennessee, Virginia and certain counties in Maryland.

The Wisconsin law above referred to (L. 1909, ch. 545) is interesting as permitting the adoption on a form of ballot never before tried in any state.¹ The idea was proposed in Wisconsin by Mr. Moncena Dunn of Marshfield, and was embodied in an act (L. 1905, ch. 522) passed by the legislature in 1905. This act, which was to go into effect only if approved by popular vote, made the use of the new form of ballot mandatory for the whole state. The question of its adoption was submitted to the people in April, 1906, and, as mentioned above, it was rejected. It has now been reënacted with certain changes, and its adoption has been left optional with the county boards of the several counties. The ballot is to be composed of a number of different colored sheets of thin cardboard, one for each party "legally entitled to a party designation upon the official ballot," and one for independent nominations. These sheets are to be so stapled together that a portion of each sheet, on which is to be printed the party name or political designation, shall be left visible at the head of the ballot, and the several sheets are to be so rotated that, as nearly as possible, any one party sheet shall appear in the top position on as many ballots as each of the other party sheets. Each sheet is to be divided by lines of perforation into as many detachable coupons as there are offices to be voted for (except that the names of the presidential electors of each party, accompanied by those of the party candidates for president and vice-president, are all to be printed on one coupon)—so that each coupon shall contain the title of one office

¹ The only similar proposal of which the writer has heard was one embodied in a bill submitted to the New York legislature in 1905 by the Election Laws Improvement Association of New York City. This bill, which was never very seriously considered by the legislature, provided for a ballot of the "Massachusetts" form, but divided by lines of perforation into as many detachable coupons as there were offices to be voted for—each "office group" being printed on a separate coupon. The ballot was to be marked and voted in the usual way, but in counting the vote the election officers were to detach the several coupons and count them separately, the general object being to prevent any mark or mutilation on one part of the ballot from rendering void, or voidable, any of the other portions thereof.

and the name of the party candidate (or candidates) therefor. Constitutional amendments and other questions submitted are not to be printed on the coupon ballot, but on a separate ballot as at present provided.

On entering the polling place, each voter is to be given, in addition to his ballot, an "official ballot folder" and a "remainder envelope." The former is to be constructed with as many pockets on the inside as there are coupons on any one sheet, is to be of such size and shape that a whole sheet, folded once, may be enclosed therein and is to be provided with a gummed flap so that it may be sealed in such a way as to conceal its contents. The "remainder envelope" is also to be provided with a gummed flap, so that it may be sealed, and is to have a pocket on the opposite side so arranged that the "official ballot folder" can be inserted therein and a flap sealed down over it without entirely covering it. Before delivering the ballot, folder and envelope to a voter, the ballot clerk is to attach to the back of the ballot, at the top (in such a way that it will protrude from the "remainder envelope" after the ballot has been inserted therein) a double "check-label," on both parts of which he is to write the voter's name and number. The clerk is then to detach one part of this "check-label" and keep it, the other part remaining on the ballot until the same is returned by the voter. The object of this device is the same as that of the detachable numbered stub employed in a number of states, i. e., to ensure that the ballot returned by a voter shall be none other than that given to him by the election officers.

The voter is to prepare his ballot in the voting booth in the following way:

If he wishes to vote a "straight party ticket," he is to tear off the proper sheet and enclose it, entire, in the "official ballot folder."

If he wishes to vote a "split ticket," he is to detach each coupon containing the name of a candidate for whom he wishes to vote and place it in the appropriate pocket on the inside of the "official ballot folder."

In either case he is to enclose all the unused portions of the "coupon ballot" in the "remainder envelope."

In case the voter wishes to vote for one or more persons whose names are not printed anywhere on the "coupon ballot" he is to be provided by the ballot clerk, upon request, with a blank sheet of paper, is to write thereon the name of each such person and the title of the office to which he is to be elected, and is to fold and cast such ballot by itself, keeping it entirely separate from the "coupon ballot," "official ballot folder" and "remainder envelope." This arrangement seems hardly calculated to preserve complete secrecy, since it will always make it possible

for the inspectors to tell whether or not a voter has voted for anyone whose name is not printed on the ballot.

After leaving the voting booth the voter is to hand the "remainder envelope," unsealed, to the inspectors, and the latter are to remove from the unused portion of the ballot, without examining the same, the duplicate half of the "check-label" which remains attached thereto, and to compare this half with the half previously retained by the ballot-clerks. If the two halves correspond, the voter is then to seal the "official ballot folder" and the "remainder envelope," in view of the inspectors, and to return them both. On receipt of the same the inspectors are to place the "official ballot folder" in the pocket provided on the face of the "remainder envelope," seal down the flap over the enclosed folder, and deposit the "remainder envelope" in the ballot-box.

When all the envelopes are taken from the ballot-box, and before the votes are counted, each "remainder envelope" and the corresponding "official ballot folder" fastened to it must be marked with the same number so that they may afterwards be identified as belonging together.

In counting the ballots a detachable coupon is always to be given precedence, as an indication of the voter's intention, over an entire sheet (in case both are enclosed in the same "official ballot folder"). If two or more coupons for the same office are enclosed, the ballot is to be counted as a blank so far as this office is concerned.

Whatever advantages this new form of ballot may possess, it seems likely to prove somewhat complicated for the average voter—and, for that matter, for the average inspector! It will be interesting, however, to note the result of the experiment, in case any of the counties decide to try it.

Among the acts and amendments relating to ballot laws adopted in other states, may be mentioned the following:

In New York (as part of a general statutory consolidation) the whole election law was rearranged in more compact and systematic form and re-enacted as chapter 17 of the Consolidated Laws (L. 1909, ch. 22).

In Alabama it was provided (Acts 1909, No. 110, p. 277) that "the name of each candidate shall appear but once on the ballot, and under only one emblem." The effect of this provision, in conjunction with the "party column" form of ballot, is to render a successful "fusion" campaign vastly more difficult.

In Massachusetts, where the use of voting machines had been declared unconstitutional by the Supreme Judicial Court in 1907 (*Nichols v. Board of Elections*, 196 Mass., 410), a constitutional amendment ex-

pressly permitting their adoption was passed for the first time by the legislature. It will have to be passed again in 1910 and submitted to the people before it becomes part of the constitution of the state.

ARTHUR LUDINGTON.

County Health Commissioners. By a law of 1909, the Indiana legislature abolished the county boards of health, and all matters of public health are now under the control of a county health commissioner. This law is a substitute for an earlier one which, on a technicality, was declared unconstitutional. After January 4, 1910, only those persons are eligible to the office of health commissioner of county, city, or town, who have passed an examination prescribed by the state board of health, or who have had recent experience in the office. Applicants for examinations are to be licensed physicians, except in special cases when the state board declares others eligible to take the examinations. The county health commissioner is to receive an annual salary of one and one-half cents for each person in the county.

The same law gives the state board of health power to make sanitary inspections in all parts of the state, as well as in public institutions and buildings. This power is extended to private property, due notice having been given of such inspections.

The board may prescribe and regulate the character and location of plumbing, water-supply, drainage, lighting, sewage, ventilation and heat of public buildings and institutions. Violations of rules laid down by the state board for the control of local boards of health are punishable by fines of from five to fifty dollars.

LORIAN P. JEFFERSON.

Legislative Investigations.—An examination of the efforts being made this year by legislators to learn the facts upon which to base legislative action will result in increasing confidence in the ultimate success of our system of law making. Careful investigation and correct analysis are the bases of good government. The more carefully investigation is done and the more closely analysis determines the real facts, the more nearly will our statute law approach the ideal fitness of the common law. We hear many well warranted complaints about hasty legislation. Laws are enacted without even a pretense of investigation of their merits and ultimate effects. A striking example of this is shown in the two cent fare craze which swept over the country in 1907. In not